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February 27, 2013

BY E-FILING AND FAX

The Honorable Joel Schneider
United States District Court for the District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets
Room 1050
Camden, NJ 08101

Re: *Sciele Pharma, Inc., et al. v. Lupin Ltd., et al., C.A. No. 09-037-RBK-JS*

Dear Magistrate Judge Schneider:

I write on behalf of Plaintiff Shionogi in response to Lupin's February 27, 2013 letter regarding Dr. Batheja's deposition. *See* D.I. 656. Lupin contends that they are unable to provide a date certain for the deposition because Dr. Batheja is a non-party to this litigation. *Id.* However, Shionogi requested that the Court order ***Lupin*** to schedule the deposition as per the parties' earlier agreement and Court order (*see* D.I. 655), and, although Dr. Batheja may be a third party, ***Lupin*** is not. Lupin also does not advise the Court that Dr. Batheja submitted a declaration on behalf of Lupin, and on which Lupin relied during the preliminary injunction proceedings. *See* D.I. 232. Unless Lupin disclaims any intent to rely on either Dr. Batheja or his declaration at trial or otherwise in this case, they should produce him for deposition. Accordingly, Shionogi requests that the Court preclude Lupin from relying on Dr. Batheja's testimony at trial or otherwise if Lupin fails to produce Dr. Batheja for his deposition by March 15.

Respectfully submitted,

/s/ Karen Jacobs Loudon

Karen Jacobs Loudon (#2881)

cc: All Counsel of Record

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